

that lie at the core of many National Rifle Association (NRA) claims in support of broad gun ownership. Would large-scale studies validate Lott's controversial assertion that "more guns" lead to "less crime," or would such research put this claim to rest?<sup>2</sup> Would evidence support the notion that arming teachers makes students safer? Do mass shootings represent the actions of "mentally ill" persons or failures of "mental health" systems, as GOP politicians frequently claim, or do such statements simply further stereotypes and misperceptions?<sup>3</sup>

## WHITE PROTECTIONISM

Freed of the so-called ban, public health research could also pioneer new large-scale analysis of charged tensions of race surrounding American gun culture. As but one example, the NRA long posited guns as protections against oft-racialized "bad guys" such as, in the words of CEO Wayne LaPierre, thugs, terrorists, home invaders, drug cartels, and car jackers.<sup>4</sup> Such language plays to histories in which guns

function as symbols of White authority.<sup>5</sup> Yet research is now beginning to consider the potential downside of such construction. For instance, while White men comprise the majority of American gun superowners (own more than 30 guns), White men also dominate statistics on gun suicide in ways that far exceed demographics.<sup>6</sup> Might the construction of White protectionism also function as a health hazard, and what alternate modes of White communal engagement might emerge in their stead?<sup>7</sup>

## RESHAPING CONVERSATIONS IN PRODUCTIVE WAYS

These are but a few examples of the ways that public health research might take the lead in shaping common knowledge and best practices regarding American gun ownership after Dickey. Undoubtedly, the broad array of public health methods would affect future laws and policies in ways that, one can only hope, provide safety and security for future generations. At the same time, public

health research can also provide deeper understandings of the ways Americans talk, and often talk past one another, about broader tensions and divisions signified by guns. By so doing, public health research can demarcate new opportunities for common ground among communities polarized by a needlessly contentious "debate" about something for which we all strive: safety.

Part of this work undoubtedly involves better understandings of how we came to our current, complex moment—in which children participate in "mass shooter drills" in schools while grown-ups struggle to achieve basic levels of agreement about how to stop future shootings. And it also involves asking difficult questions about why we feel we need (or don't need) so many guns in the first place, and what kind of society we create when we divide so readily into pro- or anti-, red or blue, as a result. By so doing, public health can help shape something just as important as the knowledge base about firearms: it can enable better ways to talk to, understand, and empathize with each other about matters of security and protection, and life and death. **AJPH**

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# The Dickey Amendment on Federal Funding for Research on Gun Violence: A Legal Dissection



See also Galea and Vaughan, p. 856; and the Gun Violence Prevention Section, pp. 858–888.

For more than 20 years, Congress has deterred federal funding for gun violence research by including a provision known as the Dickey Amendment in annual appropriations legislation. The provision prohibits the use of federal funds to advocate or promote gun control.

With public interest in gun issues heightened after a series of notorious mass shootings and widespread student protests, Congress reached a compromise in passing an omnibus spending bill in March 2018. The Dickey Amendment has not gone away, but a report accompanying

the spending bill clarifies that the amendment does not prohibit federal funding of research on the causes of gun violence. This compromise

may help reduce the Dickey Amendment's chilling effect on gun violence research, but it remains to be seen whether more funding will actually be devoted to such research.

## ORIGINS OF THE DICKEY AMENDMENT

The Dickey Amendment arose in response to efforts made

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in the early 1990s to begin treating gun violence as a public health issue. In 1992, the US Centers for Disease Control and Prevention (CDC) converted its violence prevention division into a center that would lead federal efforts to reduce deaths and injuries resulting from violence. Soon, studies funded by the center began to draw attention to the gun issue. In particular, a 1993 study by Arthur Kellermann and his colleagues revealed an increased risk of homicide associated with presence of a firearm in a home.<sup>1</sup> The Kellermann study and other similar investigations struck a nerve and began to receive widespread attention in newspapers and other media.

The National Rifle Association (NRA) accused the CDC of being biased against guns and began lobbying for the elimination of the injury prevention center. Although the center survived, the NRA persuaded its allies in Congress to take action. Led by Representative Jay Dickey of Arkansas, they added a provision to a 1996 spending bill declaring that “[n]one of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control.”<sup>2</sup> Congress also stipulated that \$2.6 million of the CDC’s budget, which was the amount spent on firearm injury research during the previous year, would be specifically earmarked for research on traumatic brain injuries.

## IMPACT OF THE AMENDMENT

The Dickey Amendment became an annual tradition, with Congress including it every year in the appropriations legislation that funds the CDC. The restriction’s meaning was debatable. The

provision prohibits using funds to advocate or promote gun control, so it could be reasonably interpreted as placing no limit on research about gun violence and its causes, as long as the funded studies stopped short of calling for the enactment of specific legislative proposals that would restrict access to firearms. CDC grant guidelines characterized the restriction that way, warning that “CDC’s funds may not be spent on political action or other activities designed to affect the passage of specific Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.”<sup>3</sup>

No opportunity for a more definitive determination of the restriction’s meaning, such as through interpretation by a court in litigation, ever arose. Although the actual scope of the prohibition was debatable, its effect was not. CDC officials understood that the Dickey Amendment was “a shot fired across the bow” (<https://wapo.st/2HGow7p>). The NRA and its supporters in Congress had made clear that the CDC had to avoid any studies that could be perceived as anti-gun efforts. CDC funding for research relating to firearms became almost nonexistent. As noted by Kellermann and Rivara, “Precisely what was or was not permitted under the clause was unclear. But no federal employee was willing to risk his or her career or the agency’s funding to find out.”<sup>4</sup>(p549)

The Dickey Amendment was eventually extended in 2011 to cover the National Institutes of Health as well as the CDC.<sup>5</sup> The National Institutes of Health apparently drew the NRA’s ire by funding research, published in *AJPH*, on the association between gun possession and assaults.<sup>6</sup>

Criticism of the Dickey Amendment continued to build,

with even former representative Dickey having a change of heart and declaring support for research on how to reduce firearm injuries and deaths. After the Sandy Hook school shooting in 2012, President Barack Obama directed the CDC not to regard the Dickey Amendment as a complete bar to funding research on gun violence. The CDC nevertheless remained reticent. President Obama urged Congress to allocate funding to the CDC for work on gun violence prevention, but Congress denied the request.

## A NEW CONCESSION FROM CONGRESS

In March 2018, Congress passed a \$1.3 trillion spending bill just in time to avoid a federal government shutdown. Although the massive bill was publicly unveiled only one day before Congress voted on it, the legislation was the product of weeks of negotiations and compromises by the leadership of both parties. The discussions occurred at a time of heightened national focus on gun violence, after 17 people died in a shooting at Marjory Stoneman Douglas High School in Parkland, Florida, and the young survivors of that shooting started a campaign of protests and activism.

The federal spending bill included a compromise on gun violence research. Although Democratic leaders wanted to eliminate the Dickey Amendment altogether, the provision prohibiting the use of federal funds to advocate or promote gun control was once again included in the appropriations legislation.<sup>7</sup> However, a report accompanying the spending legislation sought to clarify and soften the prohibition’s impact:

“[w]hile appropriations language prohibits the CDC and other agencies from using appropriated funding to advocate or promote gun control, the Secretary of Health and Human Services has stated the CDC has the authority to conduct research on the causes of gun violence” (<https://bit.ly/2GR4B2u>).

## FUTURE OF FEDERAL GUN VIOLENCE RESEARCH FUNDING

Although the 2018 legislative package makes clear that federal funding can support research on gun violence, it leaves unanswered questions about when such research would cross the line into promotion and advocacy of gun control. Many Democrats nevertheless touted the compromise as a major victory for gun control efforts, whereas Republican leaders insisted that it changed nothing because the Dickey Amendment was never intended to be a blanket prohibition of funding for research on gun violence.

Public health experts observed that what really matters in the end is the amount of money available. After all of the political wrangling and partisan rhetoric have run their course, the compromise struck in the new spending bill will not really make much of a difference unless funding is actually available for gun violence research. Congress has made clear that the Dickey Amendment does not bar all federal support for research on gun issues, and Congress should now follow up by specifically appropriating funds for high-quality research that will inform efforts to reduce firearm deaths and injuries. **AJPH**

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# The Second Amendment and Firearms Regulation: A Venerable Tradition Regulating Liberty While Securing Public Safety



See also Galea and Vaughan, p. 856; and the Gun Violence Prevention Section, pp. 858–888.

Firearms violence in the United States has reached epidemic proportions, with more than 30 000 Americans dying as a result of gun violence each year.<sup>1</sup> Proposals for more effective gun regulation inevitably trigger arguments that the Second Amendment poses limits on such policies and that reasonable regulations are infringements on Second Amendment rights. This view, however, does not have a solid foundation in either American history or law. As long as there have been guns in America, there has been regulation of firearms.

## ANGLO-AMERICAN LAW ROOTS

The settlers who migrated to America brought a variety of gun regulations with them. The individual colonies also supplemented these regulations with their own laws aimed at preserving the peace. Restrictions on the storage of gunpowder, prohibitions on armed travel in public, and the disarmament of those deemed potentially

dangerous are all examples of regulations that have ancient roots in Anglo-American law.<sup>2</sup> Two specific illustrations are 1715 Massachusetts Acts 311, An Act in Addition to an Act for Erecting of a Powder-house in Boston ([bit.ly/2qJ9FOM](http://bit.ly/2qJ9FOM)), an early example of a law regulating how gunpowder was stored, and An Act Against Wearing Swords, Etc. ([bit.ly/2qOeYgb](http://bit.ly/2qOeYgb)), a New Jersey law prohibiting public carry of a variety of weapons. Both of these colonial laws demonstrate the robust power of the state to regulate weapons, including firearms, to promote public health and safety.

Another instance of the broad scope of state power to regulate arms dates to an even earlier period of Anglo-American law. Consider the restrictions imposed by the Statute of Northampton, a law enacted during the reign of King Edward III in the 14th century. It prohibited any individual from traveling armed in populous areas or coming before the king's ministers with arms. Before the age

of modern police forces, much of the day-to-day enforcement of law was community based and depended on justices of the peace who enjoyed broad powers to maintain public order and safety, including the power to detain, disarm, arrest, and imprison those who threatened the peace. Indeed, any member of the local community could approach a local justice of the peace and demand that an individual who posed a potential threat be forced to provide a peace bond, something akin to the types of bail bonds currently used when suspects in criminal prosecutions await trial.<sup>3</sup>

## MODERN AMERICAN LAW

Although the Second Amendment is often invoked by both sides in the contemporary gun debate, each side tends to focus

on only part of the amendment. The entire text reads as follows: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed” (<http://bit.ly/2KxU-DEL>). The National Rifle Association and other gun rights groups are fond of quoting the latter part of the amendment, which affirms the right to keep and bear arms. Conversely, gun control supporters typically focus their attention on the part of the text asserting the necessity of a well-regulated militia. The portion of the amendment that is largely ignored in today's debate is that linking both of these parts to “the security of a free State.”<sup>4</sup>

The framers and adopters of the Second Amendment certainly feared tyranny, but they also feared anarchy.<sup>5</sup> In their view, there could be no liberty without regulation and the rule of law. This is a vital principle of America's constitutional tradition. Indeed, in the decades after the adoption of the Second Amendment, levels of gun regulation in America increased as opposed to decreasing. Although each side in today's great American gun debate claims to be the true heir of the founding

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